

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4328

To enhance the competitiveness of the United States and promote foreign commerce generally through the creation of the United States Trade Administration as an independent establishment in the executive branch of the Government.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 1996

Mr. WHITE introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, Government Reform and Oversight, International Relations, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To enhance the competitiveness of the United States and promote foreign commerce generally through the creation of the United States Trade Administration as an independent establishment in the executive branch of the Government.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Trade Modernization  
5       Act of 1996”.

## 1 **SEC. 2. TABLE OF CONTENTS.**

### 2 The table of contents is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

#### TITLE I—GENERAL PROVISIONS

- Sec. 101. Findings.
- Sec. 102. Definitions.

#### TITLE II—UNITED STATES TRADE ADMINISTRATION

##### Subtitle A—Establishment

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##### Subtitle B—Officers

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##### Subtitle C—Transfers to the USTA

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- Sec. 226. Consolidation of export promotion and financing activities.
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##### Subtitle D—Administrative Provisions

- Sec. 231. Personnel provisions.
- Sec. 232. Delegation and assignment.
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- Sec. 234. Reorganization.
- Sec. 235. Rules.
- Sec. 236. Funds transfer.
- Sec. 237. Contracts, grants, and cooperative agreements.
- Sec. 238. Use of facilities.
- Sec. 239. Gifts and bequests.
- Sec. 240. Working capital fund.
- Sec. 241. Service charges.
- Sec. 241. Seal of office.

##### Subtitle E—Related Agencies

- Sec. 251. National Security Council.
- Sec. 252. International Monetary Fund.

## Subtitle F—Conforming Amendments

- Sec. 261. Amendments to general provisions.  
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## TITLE III—MISCELLANEOUS PROVISIONS

- Sec. 301. References.  
 Sec. 302. Additional transfers.  
 Sec. 303. Exercise of authorities.  
 Sec. 304. Savings provisions.  
 Sec. 305. Transfer of assets.  
 Sec. 306. Delegation and assignment.  
 Sec. 307. Authority of Director of the Office of Management and Budget with respect to functions transferred.  
 Sec. 308. Certain vesting of functions considered transfers.  
 Sec. 309. Availability of existing funds.  
 Sec. 310. Definitions.

## TITLE IV—MISCELLANEOUS

- Sec. 401. Effective date.  
 Sec. 402. Interim appointments.  
 Sec. 403. Authorization of appropriations.

1 **TITLE I—GENERAL PROVISIONS**2 **SEC. 101. FINDINGS.**

3 The Congress finds that—

4 (1) expanding United States participation in  
 5 international trade improves the general welfare of  
 6 the country by increasing demand for products and  
 7 services of the United States, thereby creating more  
 8 American jobs and improving the quality of life in  
 9 the country;

10 (2) such participation requires continued Amer-  
 11 ican leadership in international trade liberalization  
 12 and promotion of foreign commerce, generally;

13 (3) the Federal Government can strengthen the  
 14 international trade leadership of the United States

1 and enhance the ability of United States businesses  
2 to compete in foreign markets by acting to—

3 (A) reduce international and local trade  
4 barriers imposed on investments and the sale of  
5 products and services;

6 (B) promote and maintain an international  
7 trade system that establishes open, transparent,  
8 and fair trade rules; and

9 (C) encourage and facilitate increased par-  
10 ticipation by United States businesses in the  
11 international marketplace;

12 (4) unfortunately, the present organizational  
13 structure of the Federal Government's administra-  
14 tion of international trade activities is too diffuse  
15 and leads to inconsistent and conflicting policies and  
16 actions, weakening United States trade leadership  
17 and hindering the ability of United States businesses  
18 to compete;

19 (5) therefore, the Federal Government must  
20 fundamentally reorganize its trade related activities  
21 to better coordinate the development and implemen-  
22 tation of United States trade policy; and

23 (6) such reorganization must include the con-  
24 solidation of Federal functions relating to inter-  
25 national trade into a single office, with cabinet level

1 representation and full responsibility for all trade ac-  
2 tivities of the United States.

3 **SEC. 102. DEFINITIONS.**

4 For purposes of this Act—

5 (1) the term “USTA” means the United States  
6 Trade Administration established in section 201;

7 (2) the term “Federal agency” has the meaning  
8 given to the term “agency” by section 551(1) of title  
9 5, United States Code; and

10 (3) the term “USTR” means the United States  
11 Trade Representative as provided for under section  
12 201.

13 **TITLE II—UNITED STATES**  
14 **TRADE ADMINISTRATION**  
15 **Subtitle A—Establishment**

16 **SEC. 201. ESTABLISHMENT OF THE USTA.**

17 (a) **IN GENERAL.**—The United States Trade Admin-  
18 istration (USTA) is established as an independent estab-  
19 lishment in the executive branch of Government as defined  
20 under section 104 of title 5, United States Code. The  
21 United States Trade Representative shall be the head of  
22 the USTA and shall be appointed by the President, by  
23 and with the advice and consent of the Senate.

24 (b) **AMBASSADOR STATUS.**—The USTR shall have  
25 the rank and status of Ambassador and shall represent

1 the United States in all trade negotiations conducted by  
2 the USTA.

3 (c) CONTINUED SERVICE OF CURRENT USTR.—The  
4 individual serving as United States Trade Representative  
5 on the date immediately preceding the effective date of  
6 this Act may continue to serve as USTR under subsection  
7 (a).

8 **SEC. 202. FUNCTIONS OF USTR.**

9 (a) IN GENERAL.—As the head of the USTA, in addi-  
10 tion to having primary responsibility for all other func-  
11 tions transferred by law to the USTA, the USTR shall—

12 (1) serve as the principal advisor to the Presi-  
13 dent on international trade policy, including advising  
14 the President regarding the impact on trade of other  
15 United States policies;

16 (2) exercise primary responsibility for develop-  
17 ing, coordinating, and implementing the United  
18 States international trade policy, to improve the  
19 ability of United States businesses to compete in the  
20 international marketplace;

21 (3) exercise primary responsibility for conduct-  
22 ing international trade negotiations;

23 (4) monitor and, where appropriate, enforce  
24 compliance with international trade agreements and  
25 the laws of the United States relating to trade; and

1           (5) pursue the enforcement of international  
2 agreements to which the United States is a party  
3 that provide for the protection of intellectual prop-  
4 erty rights, seek new international agreements to  
5 minimize theft of intellectual property owned by  
6 United States citizens and businesses, otherwise pro-  
7 mote protection of intellectual property rights, and  
8 report directly to the Congress, on an annual  
9 basis—

10           (A) the status of enforcement of inter-  
11 national agreements to which the United States  
12 is a party that provide for the protection of in-  
13 tellectual property rights;

14           (B) analyses of the impact on United  
15 States citizens and businesses of piracy of intel-  
16 lectual property by foreign entities; and

17           (C) any recommendations for new inter-  
18 national agreements to provide for the protec-  
19 tion of intellectual property rights.

20           (b) INTERAGENCY ORGANIZATION.—The USTR shall  
21 be the chairperson of the interagency organization estab-  
22 lished under section 242 of the Trade Expansion Act of  
23 1962.

24           (c) NATIONAL SECURITY COUNCIL.—The USTR  
25 shall be a member of the National Security Council.

1 (d) ADVISORY COUNCIL.—The USTR shall be Dep-  
2 uty Chairman of the National Advisory Council on Inter-  
3 national Monetary and Financial Policies established  
4 under Executive Order 11269, issued February 14, 1966.

5 (e) AGRICULTURE.—(1) The USTR shall consult  
6 with the Secretary of Agriculture or the designee of the  
7 Secretary of Agriculture on all matters that potentially in-  
8 volve international trade in agricultural products.

9 (2) If an international meeting for negotiation or con-  
10 sultation includes discussion of international trade in agri-  
11 cultural products, the USTR or the designee of the USTR  
12 shall be Chairperson of the United States delegation to  
13 such meeting and the Secretary of Agriculture or the des-  
14 ignee of such Secretary shall be Vice Chairperson. The  
15 provisions of this paragraph shall not limit the authority  
16 of the USTR under subsection (h) to assign to the Sec-  
17 retary of Agriculture responsibility for the conduct of, or  
18 participation in, any trade negotiation or meeting.

19 (f) TRADE PROMOTION.—The USTR shall be the  
20 chairperson of the Trade Promotion Coordinating Com-  
21 mittee.

22 (g) NATIONAL ECONOMIC COUNCIL.—The USTR  
23 shall be a member of the National Economic Council es-  
24 tablished under Executive Order No. 12835, issued Janu-  
25 ary 25, 1993.

1 (h) INTERNATIONAL TRADE NEGOTIATIONS.—Ex-  
2 cept where expressly prohibited by law, the USTR, at the  
3 request or with the concurrence of the head of any other  
4 Federal agency, may assign the responsibility for conduct-  
5 ing or participating in any specific international trade ne-  
6 gotiation or meeting to the head of such agency whenever  
7 the USTR determines that the subject matter of such  
8 international trade negotiation is related to the functions  
9 carried out by such agency.

## 10 **Subtitle B—Officers**

### 11 **SEC. 211. DEPUTY ADMINISTRATOR OF THE USTA.**

12 (a) ESTABLISHMENT.—There shall be in the USTA  
13 the Deputy Administrator of the United States Trade Ad-  
14 ministration, who shall be appointed by the President, by  
15 and with the advice and consent of the Senate.

16 (b) ABSENCE, DISABILITY, OR VACANCY OF  
17 USTR.—The Deputy Administrator of the United States  
18 Trade Administration shall act for and exercise the func-  
19 tions of the USTR during the absence or disability of the  
20 USTR or in the event the office of the USTR becomes  
21 vacant. The Deputy Administrator shall act for and exer-  
22 cise the functions of the USTR until the absence or dis-  
23 ability of the USTR no longer exists or a successor to the  
24 USTR has been appointed by the President and confirmed  
25 by the Senate.

1 (c) FUNCTIONS OF DEPUTY ADMINISTRATOR.—The  
2 Deputy Administrator of the United States Trade Admin-  
3 istration shall exercise all functions, under the direction  
4 of the USTR, transferred to or established in the USTA,  
5 except those functions exercised by the Deputy United  
6 States Trade Representatives, the Director General for  
7 Export Promotion, the Inspector General, and the General  
8 Counsel of the USTA, as provided by this Act.

9 **SEC. 212. DEPUTY UNITED STATES TRADE REPRESENTA-**  
10 **TIVES.**

11 (a) ESTABLISHMENT.—There shall be in the USTA  
12 2 Deputy United States Trade Representatives, who shall  
13 be appointed by the President, by and with the advice and  
14 consent of the Senate. The Deputy United States Trade  
15 Representatives shall exercise all functions under the di-  
16 rection of the USTR, and shall include—

17 (1) the Deputy United States Trade Represent-  
18 ative for Negotiations; and

19 (2) the Deputy United States Trade Represent-  
20 ative to the World Trade Organization.

21 (b) FUNCTIONS OF DEPUTY UNITED STATES TRADE  
22 REPRESENTATIVES.—(1) The Deputy United States  
23 Trade Representative for Negotiations shall exercise all  
24 functions transferred under section 221 and shall have the  
25 rank and status of Ambassador.

1           (2) The Deputy United States Trade Representative  
2 to the World Trade Organization shall exercise all func-  
3 tions relating to representation to the World Trade Orga-  
4 nization and shall have the rank and status of Amba-  
5 sador.

6 **SEC. 213. ASSISTANT ADMINISTRATORS.**

7           (a) ESTABLISHMENT.—There shall be in the USTA  
8 3 Assistant Administrators, who shall be appointed by the  
9 President, by and with the advice and consent of the Sen-  
10 ate. The Assistant Administrators shall exercise all func-  
11 tions under the direction of the Deputy Administrator of  
12 the United States Trade Administration and include—

13                 (1) the Assistant Administrator for Export Ad-  
14                 ministration;

15                 (2) the Assistant Administrator for Import Ad-  
16                 ministration; and

17                 (3) the Assistant Administrator for Trade and  
18                 Policy Analysis.

19           (b) FUNCTIONS OF ASSISTANT ADMINISTRATORS.—

20           (1) The Assistant Administrator for Export Administra-  
21           tion shall exercise all functions transferred under section  
22           222(1)(E).

23           (2) The Assistant Administrator for Import Adminis-  
24           tration shall exercise all functions transferred under sec-  
25           tion 222(1)(F).

1           (3) The Assistant Administrator for Trade and Policy  
2 Analysis shall exercise all functions transferred under sec-  
3 tion 222(1)(C) and (D) and all functions transferred  
4 under section 222(2).

5 **SEC. 214. DIRECTOR GENERAL FOR EXPORT PROMOTION.**

6           (a) ESTABLISHMENT.—There shall be a Director  
7 General for Export Promotion, who shall be appointed by  
8 the President, by and with the advice and consent of the  
9 Senate.

10           (b) FUNCTIONS.—The Director General for Export  
11 Promotion shall exercise, under the direction of the  
12 USTR, all functions transferred under sections 222(1)(A)  
13 and (B) relating to functions of the United States and  
14 Foreign Commercial Service and 223 and shall have the  
15 rank and status of Ambassador.

16 **SEC. 215. GENERAL COUNSEL.**

17           There shall be in the USTA a General Counsel, who  
18 shall be appointed by the President, by and with the advice  
19 and consent of the Senate. The General Counsel shall pro-  
20 vide legal assistance to the USTR concerning the activi-  
21 ties, programs, and policies of the USTA.

22 **SEC. 216. INSPECTOR GENERAL.**

23           There shall be in the USTA an Inspector General  
24 who shall be appointed in accordance with the Inspector

1 General Act of 1978, as amended by section 261(a) of this  
2 Act.

3 **SEC. 217. CHIEF FINANCIAL OFFICER.**

4       There shall be in the USTA a Chief Financial Officer  
5 who shall be appointed in accordance with section 901 of  
6 title 31, United States Code, as amended by section  
7 261(e) of this Act. The Chief Financial Officer shall per-  
8 form all functions prescribed by the Deputy Administrator  
9 of the USTA, under the direction of the Deputy Adminis-  
10 trator.

11 **Subtitle C—Transfers to the USTA**

12 **SEC. 221. OFFICE OF THE UNITED STATES TRADE REP-**  
13 **RESENTATIVE.**

14       There are transferred to the USTA all functions of  
15 the United States Trade Representative and the Office of  
16 the United States Trade Representative in the Executive  
17 Office of the President and all functions of any officer or  
18 employee of such Office.

19 **SEC. 222. TRANSFERS FROM THE DEPARTMENT OF COM-**  
20 **MERCE.**

21       There are transferred to the USTA the following  
22 functions:

23           (1) All functions of, and all functions performed  
24       under the direction of, the following officers and em-  
25       ployees of the Department of Commerce:

1 (A) The Under Secretary of Commerce for  
2 International Trade.

3 (B) The Director General of the United  
4 States and Foreign Commercial Service, relat-  
5 ing to all functions exercised by the Service.

6 (C) The Assistant Secretary of Commerce  
7 for International Economic Policy.

8 (D) The Assistant Secretary of Commerce  
9 for Trade Development.

10 (E) The Under Secretary of Commerce for  
11 Export Administration.

12 (F) The Assistant Secretary of Commerce  
13 for Import Administration.

14 (2) All functions of the Secretary of Commerce  
15 relating to the National Trade Data Bank.

16 (3) All functions of the Secretary of Commerce  
17 under the Tariff Act of 1930, the Uruguay Round  
18 Agreements Act, the Trade Act of 1974, and other  
19 trade-related Acts for which responsibility is not oth-  
20 erwise assigned under this Act.

21 **SEC. 223. TRADE AND DEVELOPMENT AGENCY.**

22 There are transferred to the Director General for Ex-  
23 port Promotion all functions of the Director of the Trade  
24 and Development Agency and the Trade and Development  
25 Agency.

1 **SEC. 224. EXPORT-IMPORT BANK.**

2 (a) IN GENERAL.—(1) There are transferred to the  
3 USTA all functions of the Secretary of Commerce relating  
4 to the Export-Import Bank of the United States.

5 (2) Section 3(c)(1) of the Export-Import Bank Act  
6 of 1945 (12 U.S.C. 635a(c)(1)) is amended to read as fol-  
7 lows:

8 “(c)(1) There shall be a Board of Directors of the  
9 Bank consisting of the United States Trade Representa-  
10 tive (who shall serve as Chairman), the President of the  
11 Export-Import Bank of the United States (who shall serve  
12 as Vice Chairman), the first Vice President, and 2 addi-  
13 tional persons appointed by the President of the United  
14 States, by and with the advice and consent of the Sen-  
15 ate.”.

16 (b) EX OFFICIO MEMBER OF EXPORT-IMPORT BANK  
17 BOARD OF DIRECTORS.—The Director General for Export  
18 Promotion shall serve as an ex officio nonvoting member  
19 of the Board of Directors of the Export-Import Bank.

20 (c) AMENDMENTS TO RELATED BANKING AND  
21 TRADE ACTS.—Section 2301(h) of the Omnibus Trade  
22 and Competitiveness Act of 1988 (15 U.S.C. 4721(h)) is  
23 amended to read as follows:

24 “(h) ASSISTANCE TO EXPORT-IMPORT BANK.—The  
25 Commercial Service shall provide such services as the Di-  
26 rector General for Export Promotion of the United States

1 Trade Administration determines necessary to assist the  
2 Export-Import Bank of the United States to carry out the  
3 lending, loan guarantee, insurance, and other activities of  
4 the Bank.”.

5 **SEC. 225. OVERSEAS PRIVATE INVESTMENT CORPORATION.**

6 (a) BOARD OF DIRECTORS.—The second and third  
7 sentences of section 233(b) of the Foreign Assistance Act  
8 of 1961 (22 U.S.C. 2193(b)) are amended to read as fol-  
9 lows: “The United States Trade Representative shall be  
10 the Chairman of the Board. The Administrator of the  
11 Agency for International Development (who shall serve as  
12 Vice Chairman) shall serve on the Board.”.

13 (b) EX OFFICIO MEMBER OF OVERSEAS PRIVATE IN-  
14 VESTMENT CORPORATION BOARD OF DIRECTORS.—The  
15 Director General for Export Promotion shall serve as an  
16 ex officio nonvoting member of the Board of Directors of  
17 the Overseas Private Investment Corporation.

18 **SEC. 226. CONSOLIDATION OF EXPORT PROMOTION AND FI-**  
19 **NANCING ACTIVITIES.**

20 Within 180 days after the date of the enactment of  
21 this Act, the President shall transmit to the Congress a  
22 comprehensive plan to further consolidate Federal trade  
23 programs and export financing activities within the  
24 USTA. The plan shall provide for—

1           (1) an itemized summary of all Federal trade  
2 programs and activities identified by authorizing  
3 statute or executive order, including staff allocation  
4 and resource expenditure;

5           (2) a unified budget for reallocating Federal  
6 trade priorities, including identification and elimi-  
7 nation of overlapping and duplicative export pro-  
8 motion and financing activities;

9           (3) identification of present cooperative activi-  
10 ties among Federal, State, and private trade pro-  
11 grams, and recommendations for Federal priorities  
12 and long-term opportunities for developing and in-  
13 creasing such cooperation;

14           (4) recommendations for eliminating or restruc-  
15 turing overlapping or ineffective functions among  
16 Federal trade programs; and

17           (5) recommendations for implementing user  
18 fees to offset operating costs for the provision of  
19 services in the performance of Federal trade activi-  
20 ties.

21 **SEC. 227. ADDITIONAL TRADE FUNCTIONS.**

22           (a) **TERMINATION OF AUTHORIZATIONS OF APPRO-**  
23 **PRIATIONS.—**

24           (1) **NAFTA SECRETARIAT.**—Section 105(b) of  
25 the North American Free Trade Agreement Imple-

1       mentation Act (19 U.S.C. 3315(b)) is amended by  
2       striking “each fiscal year after fiscal year 1993” and  
3       inserting “each of fiscal years 1994 and 1995”.

4               (2) BORDER ENVIRONMENT COOPERATION COM-  
5       MISSION.—Section 533(a)(2) of the North American  
6       Free Trade Agreement Implementation Act (19  
7       U.S.C. 3473(a)(2)) is amended by striking “and  
8       each fiscal year thereafter” and inserting “fiscal  
9       year 1995”.

10       (b) FUNCTIONS RELATED TO TEXTILE AGREE-  
11       MENTS.—

12               (1) FUNCTIONS OF CITA.—(A) Subject to sub-  
13       paragraph (B), those functions delegated to the  
14       Committee for the Implementation of Textile Agree-  
15       ments established under Executive Order 11651 (7  
16       U.S.C. 1854 note) (hereafter in this subsection re-  
17       ferred to as “CITA”) are transferred to the USTA.

18               (B) Those functions delegated to CITA that re-  
19       late to the assessment of the impact of textile im-  
20       ports on domestic industry are transferred to the  
21       International Trade Commission. The International  
22       Trade Commission shall make a determination pur-  
23       suant to the preceding sentence within 60 days after  
24       receiving a complaint or request for an investigation.

25               (2) ABOLITION OF CITA.—CITA is abolished.

## 1           **Subtitle D—Administrative** 2                           **Provisions**

### 3   **SEC. 231. PERSONNEL PROVISIONS.**

4           (a) APPOINTMENTS.—The USTR may appoint and  
5 fix the compensation of such officers and employees, in-  
6 cluding investigators, attorneys, and administrative law  
7 judges, as may be necessary to carry out the functions  
8 of the USTA. Except as otherwise provided by law, such  
9 officers and employees shall be appointed in accordance  
10 with the civil service laws and their compensation fixed  
11 in accordance with title 5, United States Code.

12           (b) POSITIONS ABOVE GS–15.—(1) At the request  
13 of the USTR, the Director of the Office of Personnel Man-  
14 agement shall, under section 5108 of title 5, United States  
15 Code, provide for the establishment in a grade level above  
16 GS–15 of the General Schedule, and in the Senior Execu-  
17 tive Service, of a number of positions in the USTA equal  
18 to the number of positions in that grade level which were  
19 used primarily for the performance of functions and of-  
20 fices transferred by this Act and which were assigned and  
21 filled on the day before the effective date of this Act.

22           (2) Appointments to positions provided for under this  
23 subsection may be made without regard to the provisions  
24 of section 3324 of title 5, United States Code, if the indi-  
25 vidual appointed in such position is an individual who is

1 transferred in connection with the transfer of functions  
2 and offices under this Act and, on the day before the effec-  
3 tive date of this Act, holds a position and has duties com-  
4 parable to those of the position to which appointed under  
5 this subsection.

6 (3) The authority under this subsection with respect  
7 to any position established at a grade level above GS–15  
8 shall terminate when the person first appointed to fill such  
9 position ceases to hold such position.

10 (4) For purposes of section 414(a)(3)(A) of the Civil  
11 Service Reform Act of 1978, an individual appointed  
12 under this subsection shall be deemed to occupy the same  
13 position as the individual occupied on the day before the  
14 effective date of this Act.

15 (c) EXPERTS AND CONSULTANTS.—The USTR may  
16 obtain the services of experts and consultants in accord-  
17 ance with section 3109 of title 5, United States Code, and  
18 compensate such experts and consultants for each day (in-  
19 cluding traveltime) at rates not in excess of the maximum  
20 rate of pay for a position above GS–15 of the General  
21 Schedule under section 5332 of such title. The USTR may  
22 pay experts and consultants who are serving away from  
23 their homes or regular place of business travel expenses  
24 and per diem in lieu of subsistence at rates authorized

1 by sections 5702 and 5703 of such title for persons in  
2 Government service employed intermittently.

3 (d) VOLUNTARY SERVICES.—(1)(A) The USTR is  
4 authorized to accept voluntary and uncompensated serv-  
5 ices without regard to the provisions of section 1342 of  
6 title 31, United States Code, if such services will not be  
7 used to displace Federal employees employed on a full-  
8 time, part-time, or seasonal basis.

9 (B) The USTR is authorized to accept volunteer serv-  
10 ice in accordance with the provisions of section 3111 of  
11 title 5, United States Code.

12 (2) The USTR is authorized to provide for incidental  
13 expenses, including but not limited to transportation, lodg-  
14 ing, and subsistence for individuals who provide voluntary  
15 services under subparagraph (A) or (B) of paragraph (1).

16 (3) An individual who provides voluntary services  
17 under paragraph (1)(A) shall not be considered a Federal  
18 employee for any purpose other than for purposes of chap-  
19 ter 81 of title 5, United States Code, relating to com-  
20 pensation for work injuries, and chapter 171 of title 28,  
21 United States Code, relating to tort claims.

22 (e) FOREIGN SERVICE POSITIONS.—In order to as-  
23 sure United States representation in trade matters at a  
24 level commensurate with the level of representation main-  
25 tained by industrial nations which are major trade com-

1 petitioners of the United States, the Secretary of State shall  
2 classify certain positions at Foreign Service posts as com-  
3 mercial minister positions and shall assign members of the  
4 Foreign Service performing functions of the USTA, with  
5 the concurrence of the USTR, to such positions in nations  
6 which are major trade competitors of the United States.  
7 The Secretary of State shall obtain and use the rec-  
8 ommendations of the USTR with respect to the number  
9 of positions to be so classified under this subsection.

10 **SEC. 232. DELEGATION AND ASSIGNMENT.**

11       Except where otherwise expressly prohibited by law  
12 or otherwise provided by this Act, the USTR may delegate  
13 any of the functions transferred to the USTA or USTR  
14 by this Act and any function transferred or granted to  
15 the USTA or USTR after the effective date of this Act  
16 to such officers and employees of the USTA as the USTR  
17 may designate, and may authorize successive redelegations  
18 of such functions as may be necessary or appropriate. No  
19 delegation of functions by the USTR under this section  
20 or under any other provision of this Act shall relieve the  
21 USTR of responsibility for the administration of such  
22 functions.

23 **SEC. 233. SUCCESSION.**

24       (a) ORDER OF SUCCESSION.—Subject to the author-  
25 ity of the President, and except as provided in section

1 211(b), the USTR shall prescribe the order by which offi-  
2 cers of the USTA who are appointed by the President,  
3 by and with the advice and consent of the Senate, shall  
4 act for, and perform the functions of, the USTR or any  
5 other officer of the USTA appointed by the President, by  
6 and with the advice and consent of the Senate, during the  
7 absence or disability of the USTR or such other officer,  
8 or in the event of a vacancy in the USTA or the office  
9 of such other officer.

10 (b) CONTINUATION.—Notwithstanding any other pro-  
11 vision of law, and unless the President directs otherwise,  
12 an individual acting for the USTR or another officer of  
13 the USTA pursuant to subsection (a) shall continue to  
14 serve in that capacity until the absence or disability of  
15 the USTR or such other officer no longer exists or a suc-  
16 cessor to the USTR or such other officer has been ap-  
17 pointed by the President and confirmed by the Senate.

18 **SEC. 234. REORGANIZATION.**

19 (a) IN GENERAL.—Subject to subsection (b), the  
20 USTR is authorized to allocate or reallocate functions  
21 among the officers of the USTA, and to establish, consoli-  
22 date, alter, or discontinue such organizational entities in  
23 the USTA as may be necessary or appropriate.

24 (b) EXCEPTION.—The USTR may not exercise the  
25 authority under subsection (a) to establish, consolidate,

1 alter, or discontinue any organizational entity in the  
2 USTA or allocate or reallocate any function of an officer  
3 or employee of the USTA that is inconsistent with any  
4 specific provision of this Act.

5 **SEC. 235. RULES.**

6 The USTR is authorized to prescribe, in accordance  
7 with the provisions of chapters 5 and 6 of title 5, United  
8 States Code, such rules and regulations as the USTR de-  
9 termines necessary or appropriate to administer and man-  
10 age the functions of the USTA.

11 **SEC. 236. FUNDS TRANSFER.**

12 The USTR may, when authorized in an appropriation  
13 Act in any fiscal year, transfer funds from one appropria-  
14 tion to another within the USTA, except that no appro-  
15 priation for any fiscal year shall be either increased or  
16 decreased by more than 10 percent and no such transfer  
17 shall result in increasing any such appropriation above the  
18 amount authorized to be appropriated therefor.

19 **SEC. 237. CONTRACTS, GRANTS, AND COOPERATIVE AGREE-**  
20 **MENTS.**

21 (a) IN GENERAL.—Subject to the provisions of the  
22 Federal Property and Administrative Services Act of  
23 1949, the USTR may make, enter into, and perform such  
24 contracts, leases, cooperative agreements, grants, or other  
25 similar transactions with public agencies, private organiza-

1 tions, and persons, and make payments (in lump sum or  
2 installments, and by way of advance or reimbursement,  
3 and, in the case of any grant, with necessary adjustments  
4 on account of overpayments and underpayments) as the  
5 USTR considers necessary or appropriate to carry out the  
6 functions of the USTA.

7 (b) EXCEPTION.—Notwithstanding any other provi-  
8 sion of this Act, the authority to enter into contracts or  
9 to make payments under this subtitle shall be effective  
10 only to such extent or in such amounts as are provided  
11 in advance in appropriation Acts. This subsection does not  
12 apply with respect to the authority granted under section  
13 239.

14 **SEC. 238. USE OF FACILITIES.**

15 (a) USE BY USTR.—With their consent, the USTR,  
16 with or without reimbursement, may use the research,  
17 services, equipment, and facilities of—

18 (1) an individual,

19 (2) any public or private nonprofit agency or  
20 organization, including any agency or instrumental-  
21 ity of the United States or of any State, the District  
22 of Columbia, the Commonwealth of Puerto Rico, or  
23 any territory or possession of the United States,

24 (3) any political subdivision of any State, the  
25 District of Columbia, the Commonwealth of Puerto

1 Rico, or any territory or possession of the United  
2 States, or

3 (4) any foreign government,  
4 in carrying out any function of the USTA.

5 (b) USE OF USTA FACILITIES.—The USTR, under  
6 terms, at rates, and for periods that the USTR considers  
7 to be in the public interest, may permit the use by public  
8 and private agencies, corporations, associations or other  
9 organizations, or individuals, of any real property, or any  
10 facility, structure, or other improvement thereon, under  
11 the custody of the USTA. The USTR may require permit-  
12 tees under this section to maintain or recondition, at their  
13 own expense, the real property, facilities, structures, and  
14 improvements used by such permittees.

15 **SEC. 239. GIFTS AND BEQUESTS.**

16 (a) IN GENERAL.—The USTR is authorized to ac-  
17 cept, hold, administer, and utilize gifts and bequests of  
18 property, both real and personal, for the purpose of aiding  
19 or facilitating the work of the USTA. Gifts and bequests  
20 of money and the proceeds from sales of other property  
21 received as gifts or bequests shall be deposited in the Unit-  
22 ed States Treasury in a separate fund and shall be dis-  
23 bursed on order of the USTR. Property accepted pursuant  
24 to this subsection, and the proceeds thereof, shall be used

1 as nearly as possible in accordance with the terms of the  
2 gift or bequest.

3 (b) TAX TREATMENT.—For the purpose of Federal  
4 income, estate, and gift taxes, and State taxes, property  
5 accepted under subsection (a) shall be considered a gift  
6 or bequest to or for the use of the United States.

7 (c) INVESTMENT.—Upon the request of the USTR,  
8 the Secretary of the Treasury may invest and reinvest in  
9 securities of the United States or in securities guaranteed  
10 as to principal and interest by the United States any mon-  
11 eys contained in the fund provided for in subsection (a).  
12 Income accruing from such securities, and from any other  
13 property held by the USTR pursuant to subsection (a),  
14 shall be deposited to the credit of the fund, and shall be  
15 disbursed upon order of the USTR.

16 **SEC. 240. WORKING CAPITAL FUND.**

17 (a) ESTABLISHMENT.—The USTR is authorized to  
18 establish for the USTA a working capital fund, to be avail-  
19 able without fiscal year limitation, for expenses necessary  
20 for the maintenance and operation of such common ad-  
21 ministrative services as the USTR finds to be desirable  
22 in the interest of economy and efficiency, including—

23 (1) a central supply service for stationery and  
24 other supplies and equipment for which adequate  
25 stocks may be maintained to meet in whole or in

1 part the requirements of the USTA and its compo-  
2 nents;

3 (2) central messenger, mail, and telephone serv-  
4 ice and other communications services;

5 (3) office space and central services for docu-  
6 ment reproduction and for graphics and visual aids;

7 (4) a central library service; and

8 (5) such other services as may be approved by  
9 the Director of the Office of Management and Budg-  
10 et.

11 (b) OPERATION OF FUND.—The capital of the fund  
12 shall consist of any appropriations made for the purpose  
13 of providing working capital and the fair and reasonable  
14 value of such stocks of supplies, equipment, and other as-  
15 sets and inventories on order as the USTR may transfer  
16 to the fund, less the related liabilities and unpaid obliga-  
17 tions. The fund shall be reimbursed in advance from avail-  
18 able funds of agencies and offices in the USTA, or from  
19 other sources, for supplies and services at rates which will  
20 approximate the expense of operation, including the ac-  
21 crual of annual leave and the depreciation of equipment.  
22 The fund shall also be credited with receipts from the sale  
23 or exchange of property and receipts in payment for loss  
24 or damage to property owned by the fund. There shall be  
25 covered into the United States Treasury as miscellaneous

1 receipts any surplus of the fund (all assets, liabilities, and  
2 prior losses considered) above the amounts transferred or  
3 appropriated to establish and maintain the fund. There  
4 shall be transferred to the fund the stocks of supplies,  
5 equipment, other assets, liabilities, and unpaid obligations  
6 relating to those services which the USTR determines will  
7 be performed.

8 **SEC. 241. SERVICE CHARGES.**

9 (a) **AUTHORITY.**—Notwithstanding any other provi-  
10 sion of law, the USTR may establish reasonable fees and  
11 commissions with respect to applications, documents,  
12 awards, loans, grants, research data, services, and assist-  
13 ance administered by the USTA, and the USTR may  
14 change and abolish such fees and commissions. Before es-  
15 tablishing, changing, or abolishing any schedule of fees or  
16 commissions under this section, the USTR may submit  
17 such schedule to the Congress.

18 (b) **DEPOSITS.**—The USTR is authorized to require  
19 a deposit before the USTR provides any item, information,  
20 service, or assistance for which a fee or commission is re-  
21 quired under this section.

22 (c) **DEPOSIT OF MONEYS.**—Moneys received under  
23 this section shall be deposited in the Treasury in a special  
24 account for use by the USTR and are authorized to be  
25 appropriated and made available until expended.

1 (d) FACTORS IN ESTABLISHING FEES AND COMMIS-  
2 SIONS.—In establishing reasonable fees or commissions  
3 under this section, the USTR may take into account—

4 (1) the actual costs which will be incurred in  
5 providing the items, information, services, or assist-  
6 ance concerned;

7 (2) the efficiency of the Government in provid-  
8 ing such items, information, services, or assistance;

9 (3) the portion of the cost that will be incurred  
10 in providing such items, information, services, or as-  
11 sistance which may be attributed to benefits for the  
12 general public rather than exclusively for the person  
13 to whom the items, information, services, or assist-  
14 ance is provided;

15 (4) any public service which occurs through the  
16 provision of such items, information, services, or as-  
17 sistance; and

18 (5) such other factors as the USTR considers  
19 appropriate.

20 (e) REFUNDS OF EXCESS PAYMENTS.—In any case  
21 in which the USTR determines that any person has made  
22 a payment which is not required under this section or has  
23 made a payment which is in excess of the amount required  
24 under this section, the USTR, upon application or other-

1 wise, may cause a refund to be made from applicable  
2 funds.

3 **SEC. 241. SEAL OF OFFICE.**

4 The USTR shall cause a seal of office to be made  
5 for the USTA of such design as the USTR shall approve.  
6 Judicial notice shall be taken of such seal.

7 **Subtitle E—Related Agencies**

8 **SEC. 251. NATIONAL SECURITY COUNCIL.**

9 The fourth paragraph of section 101(a) of the Na-  
10 tional Security Act of 1947 (50 U.S.C. 402(a)) is amend-  
11 ed—

12 (1) by redesignating clauses (5), (6), and (7) as  
13 clauses (6), (7), and (8), respectively; and

14 (2) by inserting after clause (4) the following  
15 new clause:

16 “(5) the United States Trade Representative;”.

17 **SEC. 252. INTERNATIONAL MONETARY FUND.**

18 Section 3 of the Bretton Woods Agreement Act (22  
19 U.S.C. 286a) is amended by adding at the end the follow-  
20 ing new subsection:

21 “(e) The United States executive director of the Fund  
22 shall consult with the United States Trade Representative  
23 with respect to matters under consideration by the Fund  
24 which relate to trade.”.

## 1                   **Subtitle F—Conforming** 2                   **Amendments**

### 3   **SEC. 261. AMENDMENTS TO GENERAL PROVISIONS.**

4           (a) INSPECTOR GENERAL.—The Inspector General  
5 Act of 1978 (5 U.S.C. App.) is amended—

6                   (1) in subsection 9(a)(1) by inserting after sub-  
7 paragraph (W) the following:

8                           “(X) of the United States Trade Rep-  
9                           representative, all functions of the Inspector Gen-  
10                           eral of the Department of Commerce and the  
11                           Office of the Inspector General of the Depart-  
12                           ment of Commerce relating to the functions  
13                           transferred to the United States Trade Rep-  
14                           resentative by section 222 of the Trade Mod-  
15                           ernization Act of 1996; and”;

16                   (2) in section 11—

17                           (A) in paragraph (1) by inserting “the  
18                           United States Trade Representative;” after  
19                           “the Attorney General;”; and

20                           (B) in paragraph (2) by inserting “the  
21                           United States Trade Administration,” after  
22                           “Treasury;”.

23           (b) AMENDMENT TO THE TRADE ACT OF 1974.—(1)  
24 Chapter 4 of title I of the Trade Act of 1974 is amended  
25 to read as follows:

1           **“CHAPTER 4—REPRESENTATION IN**  
2                           **TRADE NEGOTIATIONS**

3   **“SEC. 141. FUNCTIONS OF THE UNITED STATES TRADE REP-**  
4                           **RESENTATIVE.**

5           “The United States Trade Representative of the  
6 United States Trade Administration established under  
7 section 201 of the Trade Modernization Act of 1996  
8 shall—

9                   “(1) be the chief representative of the United  
10 States for each trade negotiation under this title or  
11 chapter 1 of title III of this Act, or subtitle A of  
12 title I of the Omnibus Trade and Competitiveness  
13 Act of 1988, or any other provision of law enacted  
14 after the Trade Modernization Act of 1996;

15                   “(2) report directly to the President and the  
16 Congress, and be responsible to the President and  
17 the Congress for the administration of trade agree-  
18 ments programs under this Act, the Omnibus Trade  
19 and Competitiveness Act of 1988, the Trade Expan-  
20 sion Act of 1962, section 350 of the Tariff Act of  
21 1930, and any other provision of law enacted after  
22 the Trade Modernization Act of 1996;

23                   “(3) advise the President and the Congress  
24 with respect to nontariff barriers to international  
25 trade, international commodity agreements, and

1 other matters which are related to the trade agree-  
 2 ments programs; and

3 “(4) be responsible for making reports to Con-  
 4 gress with respect to the matters set forth in para-  
 5 graphs (1) and (2).”.

6 (2) The table of contents in the first section of the  
 7 Trade Act of 1974 is amended by striking the items relat-  
 8 ing to chapter 4 and section 141 and inserting the follow-  
 9 ing:

“CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

“Sec. 141. Functions of the United States Trade Representative.”.

10 (d) FOREIGN SERVICE PERSONNEL.—The Foreign  
 11 Service Act of 1980 is amended by striking paragraph (3)  
 12 of section 202(a) (22 U.S.C. 3922(a)) and inserting the  
 13 following:

14 “(3) The United States Trade Representative  
 15 may utilize the Foreign Service personnel system in  
 16 accordance with this Act—

17 “(A) with respect to the personnel per-  
 18 forming functions—

19 “(i) which were transferred to the De-  
 20 partment of Commerce from the Depart-  
 21 ment of State by Reorganization Plan No.  
 22 3 of 1979; and

23 “(ii) which were subsequently trans-  
 24 ferred to the United States Trade Rep-

1           representative by section 222 of the Trade  
2           Modernization Act of 1996; and

3           “(B) with respect to other personnel of the  
4           United States Trade Administration to the ex-  
5           tent the President determines to be necessary in  
6           order to enable the United States Trade Ad-  
7           ministration to carry out functions which re-  
8           quire service abroad.”.

9           (e) CHIEF FINANCIAL OFFICERS.—Section 901(b)(1)  
10          of title 31, United States Code, is amended by adding at  
11          the end the following:

12                         “(Q) The United States Trade Administra-  
13                         tion.”.

14          **SEC. 262. REPEALS.**

15          Sections 1 and 2 of the Act of June 5, 1939 (15  
16          U.S.C. 1502 and 1503; 53 Stat. 808), relating to the  
17          Under Secretary of Commerce, are repealed.

18          **SEC. 263. CONFORMING AMENDMENTS RELATING TO EXEC-**

19                                 **UTIVE SCHEDULE POSITIONS.**

20          (a) POSITIONS AT LEVEL I.—Section 5312 of title  
21          5, United States Code, is amended by amending the item  
22          relating to the United States Trade Representative to read  
23          as follows:

24                         “United States Trade Representative, United  
25                         States Trade Administration.”.

1 (b) POSITIONS AT LEVEL II.—Section 5313 of title  
2 5, United States Code, is amended by adding at the end  
3 the following:

4 “Deputy Administrator of the United States  
5 Trade Administration.

6 “Deputy United States Trade Representatives,  
7 United States Trade Administration (2).”.

8 (c) POSITIONS AT LEVEL III.—Section 5314 of title  
9 5, United States Code, is amended—

10 (1) by striking the item relating to the Under  
11 Secretary of Commerce, Under Secretary of Com-  
12 merce for Economic Affairs, Under Secretary of  
13 Commerce for Export Administration, and Under  
14 Secretary of Commerce for Travel and Tourism, and  
15 inserting “Under Secretary of Commerce for Eco-  
16 nomic Affairs and Under Secretary of Commerce for  
17 Travel and Tourism”; and

18 (2) by adding at the end the following:

19 “Assistant Administrators, United States Trade  
20 Administration (3).

21 “Director General for Export Promotion, Office  
22 of the United States Trade Representative.”.

23 (d) POSITIONS AT LEVEL IV.—Section 5315 of title  
24 5, United States Code, is amended—

1           (1) in the item relating to the Assistant Sec-  
2           retaries of Commerce, by striking “(11)” and insert-  
3           ing “(7)”;

4           (2) by striking the item relating to the Assist-  
5           ant Secretary of Commerce and Director General of  
6           the United States and Foreign Commercial Service;  
7           and

8           (3) by adding at the end the following:

9           “General Counsel, United States Trade Admin-  
10          istration.

11          “Inspector General, United States Trade Ad-  
12          ministration.

13          “Chief Financial Officer, United States Trade  
14          Administration.”.

15          (e) POSITIONS AT LEVEL V.—Section 5316 of title  
16          5, United States Code, is amended by striking the item  
17          relating to the National Export Expansion Coordinator,  
18          Department of Commerce.

## 19           **TITLE III—MISCELLANEOUS** 20           **PROVISIONS**

### 21          **SEC. 301. REFERENCES.**

22          Any reference in any other Federal law, Executive  
23          order, rule, regulation, or delegation of authority, or any  
24          document of or pertaining to a department or office from  
25          which a function is transferred by this Act—

1           (1) to the head of such department or office is  
2           deemed to refer to the head of the department or of-  
3           fice to which such function is transferred; or

4           (2) to such department or office is deemed to  
5           refer to the department or office to which such func-  
6           tion is transferred.

7 **SEC. 302. ADDITIONAL TRANSFERS.**

8           Any function of the Secretary of Commerce or the  
9           Department of Commerce which—

10           (1) is not transferred by title II of this Act; and

11           (2) is incidental to, necessary for, or primarily  
12           related to, the performance of a function transferred  
13           by such title,

14           is transferred to the head of the Federal agency to which  
15           the related function is transferred by such title.

16 **SEC. 303. EXERCISE OF AUTHORITIES.**

17           Except as otherwise provided by law, a Federal offi-  
18           cial to whom a function is transferred by this Act may,  
19           for purposes of performing the function, exercise all au-  
20           thorities under any other provision of law that were avail-  
21           able with respect to the performance of that function to  
22           the official responsible for the performance of the function  
23           immediately before the effective date of the transfer of the  
24           function under this Act.

1 **SEC. 304. SAVINGS PROVISIONS.**

2 (a) **LEGAL DOCUMENTS.**—All orders, determinations,  
3 rules, regulations, permits, grants, loans, contracts, agree-  
4 ments, certificates, licenses, and privileges—

5 (1) that have been issued, made, granted, or al-  
6 lowed to become effective by the President, the Sec-  
7 retary of Commerce, the United States Trade Rep-  
8 resentative, any officer or employee of any office  
9 transferred by this Act, or any other Government of-  
10 ficial, or by a court of competent jurisdiction, in the  
11 performance of any function that is transferred by  
12 this Act, and

13 (2) that are in effect on the effective date of  
14 such transfer (or become effective after such date  
15 pursuant to their terms as in effect on such effective  
16 date),

17 shall continue in effect according to their terms until  
18 modified, terminated, superseded, set aside, or revoked in  
19 accordance with law by the President, any other author-  
20 ized official, a court of competent jurisdiction, or operation  
21 of law.

22 (b) **PROCEEDINGS.**—This Act shall not affect any  
23 proceedings or any application for any benefits, service,  
24 license, permit, certificate, or financial assistance pending  
25 on the date of the enactment of this Act before an office  
26 transferred by this Act, but such proceedings and applica-

1 tions shall be continued. Orders shall be issued in such  
2 proceedings, appeals shall be taken therefrom, and pay-  
3 ments shall be made pursuant to such orders, as if this  
4 Act had not been enacted, and orders issued in any such  
5 proceeding shall continue in effect until modified, termi-  
6 nated, superseded, or revoked by a duly authorized official,  
7 by a court of competent jurisdiction, or by operation of  
8 law. Nothing in this subsection shall be construed to pro-  
9 hibit the discontinuance or modification of any such pro-  
10 ceeding under the same terms and conditions and to the  
11 same extent that such proceeding could have been discon-  
12 tinued or modified if this Act had not been enacted.

13 (c) SUITS.—This Act shall not affect suits com-  
14 menced before the date of the enactment of this Act, and  
15 in all such suits, proceeding shall be had, appeals taken,  
16 and judgments rendered in the same manner and with the  
17 same effect as if this Act had not been enacted.

18 (d) NONABATEMENT OF ACTIONS.—No suit, action,  
19 or other proceeding commenced by or against the Depart-  
20 ment of Commerce, the Secretary of Commerce, or the Of-  
21 fice of the United States Trade Representative, or by or  
22 against any individual in the official capacity of such indi-  
23 vidual as an officer or employee of an office transferred  
24 by this Act, shall abate by reason of the enactment of this  
25 Act.

1 (e) CONTINUANCE OF SUITS.—If any Government of-  
2 ficer in the official capacity of such officer is party to a  
3 suit with respect to a function of the officer, and under  
4 this Act such function is transferred to any other officer  
5 or office, then such suit shall be continued with the other  
6 officer or the head of such other office, as applicable, sub-  
7 stituted or added as a party.

8 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-  
9 VIEW.—Except as otherwise provided by this Act, any  
10 statutory requirements relating to notice, hearings, action  
11 upon the record, or administrative or judicial review that  
12 apply to any function transferred by this Act shall apply  
13 to the exercise of such function by the head of the Federal  
14 agency, and other officers of the agency, to which such  
15 function is transferred by this Act.

16 **SEC. 305. TRANSFER OF ASSETS.**

17 Except as otherwise provided in this Act, so much  
18 of the personnel, property, records, and unexpended bal-  
19 ances of appropriations, allocations, and other funds em-  
20 ployed, used, held, available, or to be made available in  
21 connection with a function transferred to an official or  
22 agency by this Act shall be available to the official or the  
23 head of that agency, respectively, at such time or times  
24 as the Director of the Office of Management and Budget

1 directs for use in connection with the functions trans-  
2 ferred.

3 **SEC. 306. DELEGATION AND ASSIGNMENT.**

4       Except as otherwise expressly prohibited by law or  
5 otherwise provided in this Act, an official to whom func-  
6 tions are transferred under this Act (including the head  
7 of any office to which functions are transferred under this  
8 Act) may delegate any of the functions so transferred to  
9 such officers and employees of the office of the official as  
10 the official may designate, and may authorize successive  
11 redelegations of such functions as may be necessary or ap-  
12 propriate. No delegation of functions under this section  
13 or under any other provision of this Act shall relieve the  
14 official to whom a function is transferred under this Act  
15 of responsibility for the administration of the function.

16 **SEC. 307. AUTHORITY OF DIRECTOR OF THE OFFICE OF**  
17                                   **MANAGEMENT AND BUDGET WITH RESPECT**  
18                                   **TO FUNCTIONS TRANSFERRED.**

19       (a) DETERMINATIONS.—If necessary, the Director of  
20 the Office of Management and Budget shall make any de-  
21 termination of the functions that are transferred under  
22 this Act.

23       (b) INCIDENTAL TRANSFERS.—The Director of the  
24 Office of Management and Budget, at such time or times  
25 as the Director shall provide, may make such determina-

1 tions as may be necessary with regard to the functions  
2 transferred by this Act, and to make such additional inci-  
3 dental dispositions of personnel, assets, liabilities, grants,  
4 contracts, property, records, and unexpended balances of  
5 appropriations, authorizations, allocations, and other  
6 funds held, used, arising from, available to, or to be made  
7 available in connection with such functions, as may be nec-  
8 essary to carry out the provisions of this Act. The Director  
9 shall provide for the termination of the affairs of all enti-  
10 ties terminated by this Act and for such further measures  
11 and dispositions as may be necessary to effectuate the pur-  
12 poses of this Act.

13 **SEC. 308. CERTAIN VESTING OF FUNCTIONS CONSIDERED**  
14 **TRANSFERS.**

15 For purposes of this Act, the vesting of a function  
16 in a department or office pursuant to reestablishment of  
17 an office shall be considered to be the transfer of the  
18 function.

19 **SEC. 309. AVAILABILITY OF EXISTING FUNDS.**

20 Existing appropriations and funds available for the  
21 performance of functions, programs, and activities termi-  
22 nated pursuant to this Act shall remain available, for the  
23 duration of their period of availability, for necessary ex-  
24 penses in connection with the termination and resolution  
25 of such functions, programs, and activities.

1 **SEC. 310. DEFINITIONS.**

2 For purposes of this title—

3 (1) the term “function” includes any duty, obli-  
4 gation, power, authority, responsibility, right, privi-  
5 lege, activity, or program; and

6 (2) the term “office” includes any office, ad-  
7 ministration, agency, bureau, institute, council, unit,  
8 organizational entity, or component thereof.

9 **TITLE IV—MISCELLANEOUS**

10 **SEC. 401. EFFECTIVE DATE.**

11 (a) **IN GENERAL.**—This Act shall take effect on the  
12 last day of the 6-month period beginning on the date of  
13 the enactment of this Act, except that—

14 (1) sections 226 and 307 shall take effect on  
15 such date of enactment; and

16 (2) at any time after the date of the enactment  
17 of this Act the officers provided for in title II of this  
18 Act may be nominated and appointed, as provided in  
19 such title.

20 (b) **INTERIM COMPENSATION AND EXPENSES.**—

21 Funds available to the Department of Commerce or the  
22 Office of the United States Trade Representative (or any  
23 official or component thereof), with respect to the func-  
24 tions transferred by this Act, may be used, with approval  
25 of the Director of the Office of Management and Budget,  
26 to pay the compensation and expenses of an officer ap-

1 pointed under subsection (a)(2) who will carry out such  
2 functions until funds for that purpose are otherwise avail-  
3 able.

4 **SEC. 402. INTERIM APPOINTMENTS.**

5 (a) IN GENERAL.—If one or more officers required  
6 by this Act to be appointed by and with the advice and  
7 consent of the Senate have not entered upon office on the  
8 effective date of this Act, and notwithstanding any other  
9 provision of law, the President may designate any officer  
10 who was appointed by and with the advice and consent  
11 of the Senate, and who was such an officer on the day  
12 before the effective date of this Act, to act in the office  
13 until it is filled as provided by this Act.

14 (b) COMPENSATION.—Any officer acting in an office  
15 pursuant to subsection (a) shall receive compensation at  
16 the rate prescribed by this Act for such office.

17 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums  
19 as may be necessary to carry out the provisions of this  
20 Act. Amounts appropriated under this section shall be  
21 available until expended.

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